IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No. 214 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI :

HONOURABLE MR.JUSTICE J.C.UPADHYAYA :

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RASIKBHAI @ BAVKUBHAI THAKARSHIBHAI - Appellant(s)
Versus
STATE OF GUJARAT & 1 - Opponent(s)

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Appearance :
THROUGH JAIL for Appellant(s) : 1, MS BANNA S DUTTA for Appellant(s) : 1,
MR HL JANI APP for Opponent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

and

HONOURABLE MR.JUSTICE J.C.UPADHYAYA

Date : 27/12/2007

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE K.S. JHAVERI)

1.0 This appeal is directed against the judgment and order dated 09.02.2000 passed by the learned Special Atrocity Judge, Ahmedabad [Rural] in Special Sessions Case No. 92 of 1998 whereby, original accused no. 1, the appellant herein, was convicted for the offences punishable u/s. 302 and 201 of the Indian Penal Code [for short, "the I.P.C."] and Section 3(2)(5) of the Scheduled Castes and Scheduled Tribes [Prevention of Atrocities] Act [for short, "the Atrocities Act"] while original accused nos. 2 & 3 were acquitted from all the charges leveled against them.

1.1 For conviction u/s. 302 of the I.P.C., the appellant was sentenced to undergo imprisonment for Life with fine of Rs.100/- and in default of payment of fine, simple imprisonment for a further period of seven days. For conviction u/s. 201 of the I.P.C., the appellant was sentenced to undergo Rigorous Imprisonment for a period of

One Year. No separate sentence was awarded for conviction u/s. 3(2)(5) of the Atrocities Act. All the sentences were ordered to run concurrently. The appellant was given the benefit of set-off.

2.0 The facts in brief, as brought out by the prosecution, are as under;

2.1 Deceased – Natubhai Laxmanbhai was residing along with his family in Village Refda, Taluka Ranpur of Ahmedabad District. Both the deceased and his wife – Shantuben were working as laborers in the field of original accused no. 2. The appellant herein and original accused no. 3 were close friends of original accused no. 2 and they used to visit each other frequently.

2.2 On 17.03.1998, in the morning hours, the deceased left for work while his wife – Shantuben left for her parental house. On that day and on the next day, i.e. on 18.03.1998, the deceased did not return home. On 22.03.1998, the brother of the deceased, Najabhai

Laxmanbhai Makwana, the complainant herein, came to know that a dead body was lying on the dry area of a river bed situated in the outskirts of the village. Therefore, the complainant went to the said place. As the said dead body was highly decomposed, it could not be identified. However, from the clothes on the dead body, the complainant realized that the said dead body was that of the deceased. Therefore, the police authority of Bawla Police Station were informed about the same.

2.3 Since the complainant was having the knowledge that the wife of the deceased was having an illicit relationship with the appellant and that she used to meet the accused persons frequently, in spite of the warnings / instructions of the deceased, for which a quarrel had also taken place between the complainant and the appellant, the complainant felt that the accused persons were behind the death of the deceased. Therefore, on 23.03.1998, he filed a complaint with respect to the aforesaid alleged incident before Bawla Police Station.

2.4 In the meanwhile, on the basis of Entry No. 3 of 1998 with regard to the discovery of the unknown dead body, the police authority carried out necessary preliminary investigation. Inquest *'panchnama'* was done. *'Marnottar'* form was filled up and necessary arrangements were made for sending the dead body for performing post-mortem. *'Panchnama'* of the scene of offence was also done and *'muddamal'* articles were collected. The clothes on the dead body were also seized. The *'muddamal'* articles so collected were sent to F.S.L. for examination. On receipt of the F.S.L. Report, PM note and other Reports, they were kept in the investigation file.

2.5 Further investigation was carried out and statements of several witnesses were recorded. As cogent evidence was found against the accused persons, they were arrested on 24.03.1998. Arrest *'panchnama'* was prepared and after completing necessary formalities, the accused persons were sent to judicial custody. The clothes worn by the appellant, at the time of the alleged incident in question, were seized by way of a separate *'panchnama'*. During the

course of interrogation, as the appellant showed willingness to produce the 'weapons' used in the commission of the alleged offence in question, the same were recovered by way of separate *'panchnamas'* in the presence of *'panchas'*.

2.6 On completion of investigation, charge-sheet was filed against the accused persons in the Court of learned Judicial Magistrate, First Class, Dhandhuka. As the case was exclusively triable by the Court of Sessions, the learned Judicial Magistrate, First Class, Dhandhuka committed the case to the District & Sessions Court, Ahmedabad [Rural and the same was numbered as Special Sessions Case No. 92 of 1999. On production of the accused persons, the learned Special Judge framed the charge and as the accused persons pleaded not guilty to the said charges, trial was conducted against them.

3.0 The prove the guilt against the accused persons, the prosecution had examined in all twenty eight witnesses namely, PW – 1 Himmatbhai Chaganbhai Kakadiya at Exhibit – 10, PW – 2 Ishwarbhai Govindbhai at Exhibit – 27,

PW – 3 Valjibhai Bhikhabhai at Exhibit – 28, PW – 4 Balwantsinh Hemubhai at Exhibit – 30, PW – 5 Vashrambhai Himmatbhai at Exhibit – 32, PW – 6 Najabhai Laxmanbhai at Exhibit – 39, PW – 7 Gabhrubhai Najabhai at Exhibit – 41, PW – 8 Mukeshbhai Dhudabhai at Exhibit – 42, PW – 9 Lilaben Dhudaben at Exhibit – 43, PW – 10 Bhagwatsinh Gagubhai at Exhibit – 44, PW – 11 Dr. Rathindra Balasaheb Deshmukh at Exhibit – 45, PW – 12 Himmatbhai Ujamsinhbhai at Exhibit – 48, PW – 13 Matrabhai Somlabhai at Exhibit – 49, PW – 14 Manubhai Valabhai at Exhibit – 51, PW – 15 Vinubhai Motibhai at Exhibit – 53, PW – 16 Bharatsinh Mansinh at Exhibit – 58, PW – 17 Jesinghbhai Merubhai at Exhibit – 59, PW – 18 Vinodbhai Natubhai at Exhibit – 60, PW – 19 Dhaniben Ratnabhai at Exhibit – 61, PW – 20 Lakhabhai Ukabhai at Exhibit – 62, PW – 21 Budhabhai Valabhai at Exhibit – 64, PW – 22 Shantuben Natubhai at Exhibit – 65, PW – 23 Jivanbhai Bhikhabhai at Exhibit – 67, PW – 24 Badhubhai Talshibhai at Exhibit – 68, PW – 25 Jugaji Ranaji at Exhibit – 74, PW – 26 Mahendrasinh Narendrasinh Vaghela at Exhibit – 76, PW – 27 Uday Narendrabhai at Exhibit – 81

and PW – 28 Pravinbhai Dahyabhai at Exhibit – 91.

3.1 The prosecution had also relied upon several documentary evidence, more particularly, the evidence in the form of complaint at Exhibit – 40, the discovery *'panchnama'* of weapon – *Choriya* at Exhibit – 31, the *'Panchnama'* of the scene of offence at Exhibit – 52, the discovery *'panchnama'* of weapon – cycle chain at Exhibit – 55, the Inquest '*panchnama'* at Exhibit – 63, the PM note at Exhibit – 46, the *'Panchnama'* of the place from where the dead body was recovered at Exhibit – 78 and the F.S.L. Reports at Exhibits – 86 to 88.

3.2 On submission of the closing *'purshis'*, the further statement of the accused persons were recorded u/s. 313 of the Code of Criminal Procedure, 1973. After hearing learned counsel for the respective parties, the learned Special Judge passed the impugned judgment convicting the appellant and acquitting the two other accused persons from the alleged offence in question. Hence, the present Appeal.

4.0 Ms. Banna Dutta learned Advocate for the appellant has submitted that the Court below has not properly appreciated the entire evidence on record. She has submitted that the case of the prosecution rests upon circumstantial evidence and that in order to prove the guilt against the appellant, the prosecution has to establish the entire chain of circumstances pointing towards his guilt. She has contented that in the present case, the prosecution has failed to establish the same and, therefore, the Court below has committed serious error in convicting the appellant for the alleged offence in question.

4.1 Learned Advocate for the appellant has further submitted that the prosecution has failed to explain the delay of six days caused in the filing of the complaint inasmuch as the whereabouts of the deceased were not know since 17.03.1998 and the impugned complaint came to be filed only on 23.03.1998 and that to only after the dead body was recovered. She has submitted that such unexplained gross delay casts serious doubts on the veracity of the allegations made in the complaint.

4.2 Learned Advocate for the appellant has contented that the evidence of those witnesses on whom the prosecution has placed heavy reliance are close relatives of the deceased and, therefore, they could not be fully relied upon and require sufficient corroboration. She has contented that except the depositions of the interested witnesses, there is no other evidence on record to connect the appellant with the crime in question. She has, therefore, submitted that the appellant has been falsely implicated in the alleged offence in question and deserves to be acquitted.

4.3 Learned Advocate for the appellant has further contented that merely because some photographs were taken by the appellant in the company of the wife of the deceased – Shantuben, it could not be presumed that there existed an illicit relationship between the two. She has submitted that the Court below has committed serious error in relying upon the same for recording the conviction of the appellant. Learned Advocate has, therefore, submitted that looking to the entire oral as well as documentary evidence

on record, it is clear that the prosecution has not been able to prove beyond doubt the guilt of the appellant. Hence, the appellant is required to be acquitted from the alleged offence by granting him the benefit of doubt.

5.0 Mr. H. L. Jani learned Advocate for the respondent – State has submitted that from the evidence of PW – 6 Najabhai Laxmanbhai at Exhibit – 39, PW – 9 Lilaben Dhudaben at Exhibit – 43, PW – 11 Dr. Rathindra Deshmukh at Exhibit – 45, PW – 17 Jesinghbhai Merubhai at Exhibit – 59, PW – 18 Vinubhai Natubhai at Exhibit – 60 and PW – 19 Dhaniben Ratnabhai at Exhibit – 61, it is clearly established that an illicit relationship existed between the appellant and the wife of the deceased – Shantuben and that on account of the said illicit relationship between the two, quarrels used to take place between the deceased and his wife – Shantuben at regular intervals.

5.1 Learned APP has further submitted that the documentary evidence on record in the form of complaint at

Exhibit – 40, the discovery *'panchnama'* of weapon – *Choriya* at Exhibit – 31, the *'Panchnama'* of the scene of offence at Exhibit – 52, the discovery *'panchnama'* of weapon – cycle chain at Exhibit – 54, Inquest '*panchnama'* at Exhibit – 63, the PM note at Exhibit – 46, the *'Panchnama'* of the place from where the dead body was recovered at Exhibit – 78, the relevant photographs and the F.S.L. Reports at Exhibits – 86 to 88 clearly establishes the guilt of the appellant. Hence, no interference is required by this Court in this appeal.

6.0 Heard learned counsel for the respective parties. Having gone through the oral as well as documentary evidence available on record, it appears that the entire case of the prosecution rests upon circumstantial evidence. It is a settled principle of law that circumstantial evidence can be reasonably made the basis of an accused person's conviction, if it is of such a character that it is wholly consistent with his guilt. If any of the circumstance is reasonably found to be consistent with the innocence of the accused person, then he could not be convicted for the alleged offence in question. Therefore, in the case on hand, if

the appellant is to be convicted for the alleged offence in question, then all the circumstances brought out by the prosecution must inevitably and exclusively point to his guilt and there should not be any circumstance which may reasonably be considered to be consistent with his innocence. Therefore, the prosecution has to establish the entire chain of circumstances pointing towards the guilt of the appellant.

7.0 We have carefully scrutinized the evidence led by all the witnesses and, more particularly, the evidence of PW – 6 Najabhai Laxmanbhai at Exhibit – 39, PW – 11 Dr. Rathindra Deshmukh at Exhibit – 45, PW – 17 Jesinghbhai Merubhai at Exhibit – 59, PW – 18 Vinodbhai Natubhai at Exhibit – 60 and PW – 19 Dhaniben Ratnabhai at Exhibit – 61 on whom the prosecution has mainly relied upon. Neither of these witnesses are eye-witnesses to the alleged incident in question.

8.0 Vinodbhai Natubhai, who is the eldest son of the deceased, has been examined as PW – 18 at Exhibit – 60. In

his deposition, he has stated that on 16.03.1998, a quarrel had taken place between his parents, viz. the deceased and his mother – Shantuben and that the said quarrel was ultimately settled by his grand-mother [PW – 19 Dhaniben Ratnabhai at Exhibit – 61] who was staying in their neighborhood. He has further deposed that on 17.03.1998, he and his grand-mother had worked in the field of original accused no. 2 up to 1730 hrs. and that while both of them were returning to their home, his grand-mother had informed him that the deceased would be coming home late, as original accused no. 2 had instructed the deceased to work late in the evening. After walking some distance and when they reached near the bank of the river situated in the outskirts of the village, he saw the appellant going towards the field of original accused no. 2 with a *'choriyu'* [A sharp-edged weapon] in his hands.

8.1 This witness has further deposed that on that day, i.e. on 17.03.1998, the deceased had not returned home and that on the next day when they had inquired from original accused no. 2 for the whereabouts of the deceased,

he had informed that the deceased has gone for diamond cutting work. He has further deposed that quarrels used to take place between the deceased and his mother [PW – 22 Shantuben Natubhai at Exhibit – 65] on the alleged aspect that there existed an illicit relationship between his mother and the accused persons, more particularly, with the appellant. He has also deposed that both the appellant and original accused no. 2 used to frequently visit their house in the absence of the deceased and that during that time they used to send him out of the house by citing one reason or the other.

8.2 This witness has identified the *'muddamal'* articles - foot-wear, clothes and wrist-watch worn by the deceased, at the time of the alleged incident in question, as also the photographs of the appellant taken at his house and the joint photographs of both the appellant and his mother – Shantuben before the Court below.

8.3 This witness has been cross-examined at length before the Court below. In his cross-examination, he has

stated that the police had recorded his statement only about ten to fifteen days after the dead body was found. It is true that there is a minor contradiction with regard to the place as to where this witness had allegedly seen the appellant with the weapon – *'choriyu'* in his hands. However, so far as the other facts are concerned, nothing incriminating has come out from his cross-examination which may lead us to believe his evidence to be untrue or unreliable.

9.0 PW – 19 Dhaniben Ratnabhai at Exhibit – 61 is the mother of the deceased. In her deposition, she has stated that on 16.03.1998, a quarrel had taken place between the deceased and his wife and that the said quarrel was ultimately settled by her intervention. She has further deposed that on the next day, i.e. on 17.03.1998, after collecting the scholarship of her grand-son – Vinodbhai Natubhai [PW – 18 at Exhibit – 60] from his school, the deceased returned home and, thereafter, went to the field of original accused no. 2. Between 1200 hrs. - 1300 hrs., she and Vinodbhai Natubhai went to the field of original accused no. 2 and worked up to 1730 hrs. Thereafter, she asked the

deceased to come home but, at that time, original accused no. 2 informed her that the deceased is required to stay back as there was some work and that she may go home. Therefore, she and his grand-son – Vinodbhai Natubhai returned home and the deceased stayed back at the field of original accused no. 2.

9.1 She has categorically deposed that while returning home, she saw the appellant going towards the field of original accused no. 2 with a *'choriyu'* in his hands. She has further deposed that on that day, i.e. on 17.03.1998, the deceased had not returned home. On the next day, she and his grand-son – Vinodbhai Natubhai went to the field of original accused no. 2. However, at that time, original accused no. 2 informed her that the deceased had gone for diamond polishing work. Ultimately, she came to know that the deceased has been killed.

9.2 This witness has also categorically deposed about the alleged illicit relationship that existed between the wife of the deceased – Shantuben and the three accused persons

and, more particularly, the appellant and also about the disputes that used to take place between the deceased and his wife at regular intervals.

9.3 This witness has also identified the *'muddamal'* foot-wear and clothes worn by the deceased at the time of the alleged incident in question, the '*muddammal*' weapon *'choriyu'* as also the individual / joint photographs of the appellant and the wife of the deceased – Shantuben before the Court below.

9.4 This witness has been cross-examined at length before the Court below. However, nothing incriminating has come out from her cross-examination which may lead us to believe her evidence to be untrue or unreliable. Thus, the evidence led by PW – 18 Vinodbhai Natubhai at Exhibit – 60 is fully supported by the evidence of this witness.

10.0 From the evidence led by the aforesaid two witnesses, it appears that on 17.03.1998, after working in the field of original accused no. 2 up to 1730 hrs. and when

they were to leave for their respective homes, original accused no. 2 informed them that the deceased was required to wait late in the evening as there was some work. Accordingly, both these witnesses left for their home and the deceased waited in the field along with original accused no. 2. While going towards their home, both these witnesses noticed the appellant proceeding towards the field of original accused no. 2 with a *'choriyu'* in his hands. On that day, the deceased didn't return home. On the next day, when both these witnesses went to meet original accused no. 2 so as to inquire the whereabouts of the deceased, original accused no. 2 informed them that the deceased had gone for diamond polishing work. Thus, the fact that the appellant was proceeding towards the field of original accused no. 2 with a *'choriyu'* in his hands at a time when the deceased was working in the field of original accused no. 2 is established beyond doubt.

11.0 The prosecution has examined one of the relatives of the appellant – Jesinghbhai Merubhai as PW – 17 at Exhibit – 59. This witness has been declared as 'hostile' by

the Court below. However, in his cross-examination, this witness has categorically admitted that in his statement made before the police, he has not narrated about the fact that on 17.03.1998, at around 1800 hrs., the appellant had visited his field along with one Natubhai Laxmanbhai and the deceased and that at that time, the appellant was having a *'choriyu'* in his hands. He has further stated that about ten minutes later, the appellant and the deceased proceeded towards the river situated in the outskirts of the village. This witness has also admitted that in his statement made before the police he has also not narrated about the fact that a fight had taken place between him and the deceased and also about the subsequent killing of the deceased by the appellant, for which the appellant had asked for his help for disposing of the dead body of the deceased.

12.0 As discussed above, it is established from the evidence of PW – 18 Vinubhai Natubhai at Exhibit – 60 and PW – 19 Dhaniben Ratnabhai at Exhibit – 61 that it was on 17.03.1998 at around 1730 hrs. that the appellant was seen proceeding towards the field of original accused no. 2 with a

'choriyu' in his hands. Though PW – 17 at Exhibit – 59 has been declared as 'hostile', it is clearly established from his cross-examination that the deceased was seen with the appellant on 17.03.1998 at around 1800 hrs. with a *'choriyu'* in his hands, meaning thereby, that the deceased was last seen together with the appellant. It may be noted that both PW – 18 Vinubhai Natubhai at Exhibit – 60 and PW – 19 Dhaniben Ratnabhai at Exhibit – 61 have categorically deposed about the alleged illicit relationship that existed between the wife of the deceased and the accused persons and, more particularly, with the appellant. The said fact is also established from the *'muddamal'* photographs of the appellant and the wife of the deceased – Shantuben taken at different places, including the house of the appellant and also from the depositions of PW – 9 Lilaben Dhundabhai at Exhibit – 43.

13.0 The said aspect of illicit relationship between the appellant and the wife of the deceased – Shantuben is also established from the evidence of Najabhai Laxmanbhai who has deposed as PW – 6 at Exhibit – 39. From the evidence of

this witness, it appears that he is a hear-say witness. At this stage, it would be pertinent to note that this witness has categorically deposed about the alleged threat issued by the appellant to both himself as well as to the deceased, when both of them had instructed the appellant to sever all the relationships that he had with the wife of the deceased.

14.0 Thus, from the evidence led by PW – 6 Najabhai Laxmanbhai at Exhibit – 39, PW – 18 Vinubhai Natubhai at Exhibit – 60, PW – 19 Dhaniben Ratnabhai at Exhibit – 61, it is established beyond doubt that the appellant was having illicit relationship with the wife of the deceased and that they used to regularly meet each other in the absence of the deceased for which quarrels used to take place between the deceased and his wife – Shantuben at regular intervals. Therefore, evidently, the deceased was a thorn in the way of the appellant.

15.0 Now, once it is established that there existed an illicit relationship between the appellant and the wife of the deceased, the question that is now required to be considered

by us is as to whether the aforesaid inclination led the appellant to commit the gruesome murder of the deceased or not ? It is an established fact that both PW – 18 Vinubhai Natubhai at Exhibit – 60 and PW – 19 Dhaniben Ratnabhai at Exhibit – 61 had noticed the appellant proceeding towards the field of original accused no. 2 on the date of the alleged incident in question with a *'choriyu'* in his hands at a time when the deceased was working in the field of original accused no. 2, meaning thereby that at the relevant point of time, a total number of three persons were present in the field of original accused no. 2, viz. the appellant, the deceased and original accused no. 2 himself.

15.1 To complete the chain of events, the prosecution has placed heavy reliance upon the documentary evidence in the form of discovery *'panchnama'* of weapon – *'choriyu'* at Exhibit – 31, discovery *'panchnama'* of wrist watch at Exhibit – 54 and discovery *'panchnama'* of *'muddamal'* articles – spade, cycle-chain and clothes worn by the appellant at the relevant point of time at Exhibit – 55. The *'panch'* witnesses, PW – 4 Balwantsinh Hemubha at Exhibit

– 30 and PW – 15 Vinubhai Motibhai at Exhibit – 53 have fully supported the case of the prosecution so far as the discovery *'Panchnamas'* are concerned. These witnesses have also been cross-examined before the Court below. However, nothing incriminating has come out which may lead us to believe their evidence to be untrue or unreliable.

15.2 The *'muddamal'* articles – wrist watch, foot-wear and clothes worn by the deceased at the relevant point of time have been identified by the relatives of the deceased to be of the deceased before the Court below. Thus, the aforesaid evidence on record, viz. the *'muddamal'* articles - wrist watch, foot-wear, clothes worn by the deceased at the relevant point of time as also the photographs clearly point towards the guilt of the appellant.

15.3 The F.S.L. Report on record at Exhibits 86 – 88 also supports the case of the prosecution. The *'muddamal'* weapon – cycle chain seized by way of discovery *'panchnama'* at Exhibit – 55, the control mud and the clothes worn by the deceased at the relevant point of time

contained human blood stains of Blood Group 'A' which is similar to that of the deceased. Thus, the aforesaid evidence also clearly supports the case of the prosecution.

16.0 The medical evidence on record also supports the case of the prosecution. The PM note of the deceased is at Exhibit – 46. In the said Report, it has been specifically stated that at the time when the dead body of the deceased was received for performing post-mortem, it was in a highly decomposed situation and that a period of about five to nine days must have been passed after the death had occurred. The said Report also states that the external injuries on the dead body consisted of gnawn marks.

16.1 From the *'panchnama'* of the scene of offence at Exhibit – 52 and the *'panchnama'* of the place from where the dead body was recovered at Exhibit – 78, it is evident that the dead body was lying in a dry river bed in the outskirts of the village. Now, when the PM note at Exhibit – 46 clearly states that there existed gnawn marks on the dead body and that about five to nine days must have been

passed after the death has taken place, the possibility cannot be ruled out that after the deceased was murdered, his dead body was hidden in the dry part of the river bed, situated in the outskirts of the village, which, subsequently, must have fallen prey to the scavengers.

16.2 The aforesaid fact also gets support from the evidence led by the Medical Officer – Dr. Rathindra Deshmukh [PW – 11 at Exhibit – 45] who has performed the post-mortem of the deceased. The said Medical Officer has categorically deposed that the gnawn marks on the dead body were post-mortem. Therefore, in no case, it could be said that the deceased died on account of a deadly attack by any animal. Thus, the fact that the deceased died a homicidal death is established beyond doubt. The motive behind the commission of the offence is established from the evidence of PW – 6 Najabhai Laxmanbhai at Exhibit – 39, PW – 18 Vinubhai Natubhai at Exhibit – 60, PW – 19 Dhaniben Ratnabhai at Exhibit – 61.

17.0 In above view of the matter, it has to be concluded

that in order to remove the thorn from his way in the form of the deceased, initially, the appellant took the deceased towards the river situated in the outskirts of the village by citing some reason and, thereafter, killed him. Subsequently, in order to hide his guilt, the appellant hid the dead body in a hole dug in a dry region of the river bed, which, ultimately, came to the fore only when it was unearthed by the scavengers.

18.0 Considering the facts and circumstances of the case and the evidence on record, the contention raised by learned Advocate for the appellant as regards delay in filing the complaint does not hold any ground and deserves to be rejected. It is true that the witnesses on whom the prosecution has placed heavy reliance to prove the chain of circumstances are the relatives of the deceased. But, from the evidence discussed herein above, it is clearly established that the prosecution case gets ample support from the documentary evidence in the form of the medical evidence, viz. the PM Note of the deceased at Exhibit – 46 and the deposition of the Medical Officer as PW – 11 at Exhibit – 45,

the Report of the F.S.L. at Exhibits – 86 to 88, the discovery *'panchnamas'* of the weapon – *'choriyu'*, wrist-watch and 'weapon' - cycle-chain at Exhibits – 31, 54 & 55 respectively, the *'muddamal'* photographs, foot-wear and clothes of the deceased. The *'panch'* witnesses also support the case of the prosecution beyond doubt. In that view of the matter, the contention raised by learned Advocate for the appellant that the prosecution case gets support only from interested witnesses also deserves to be rejected inasmuch as their evidence gets complete support from other oral as well as documentary evidence on record.

19.0 From the above discussion, we have no hesitation in concluding that the prosecution has been successful in proving the entire chain of events pointing towards the guilt of the appellant. We are in complete agreement with the reasonings given by and the findings arrived at by the Court below and, hence, find no reasons to interfere in this appeal.

20.0 For the foregoing reasons, the Appeal is dismissed. Office is directed to send the Records &

Proceedings to the trial Court concerned forthwith.

[K. S. JHAVERI, J.]

[J. C. UPADHYAYA, J.]

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